MAY FOSBURGH'S LAST SONG

Her Father Informs Court When and How It Was Sung.

SISTER DESCRIBES BURGLAR'S MASK

Little Beatrice Tells of the Shrouded Face that Appeared Just Before the Fatal Shot Was Heard.

PITTSFIELD, Mass., July 24.-The attendance at today's session of the Fosburgh trial was many times larger than the courtroom could accommodate and nine-tenths of those present were women.

A number of sepsational incidents oc curred today, the first coming after M: Joyner for the defense had concluded his presentation of what he claimed he could prove, when Frederick W. Lund, bookkeeper and paymaster of the Fosburgh firm in testifying, declared that he felt some of the men who were employed by the firm were dangerous and said he knew they car ried weapons.

Another came during the testimony of the father of the dead girl, when he said 'Then May went in and sang several selections, while Miss Sheldon played. The last song she sang was 'Plains of Peace'.' The father had been describing the manner in which the family had spent the evening of Sunday preceding the tragedy When he came to the reference to May's singing her last song tears came to his eyes, his voice choked and for a few seconds he was unable to continue. Otherwise Mr. Fosburgh's testimony was given in a clear-cut and distinct voice. His narrative of the discovery of the burglars and of his encounter with them was told with rapid dis-

When Mr. Joyner questioned Mr. Fosburgh with reference to the meeting with Esther at the depot on the morning after the tragedy and as to what was told her, a refutaprominent in this case was made by Mr. the end of the dresser in the kitchen bed

happened?" "Then Robert put his hand on her

shoulder and replied: 'Oh, nothing, Esther; and he got hurt."

"It was not, 'We have had a scrap?" " "No, sir," replied the witness with em-

phasis. Little Beatrice Fosburgh, called by the case, was on the stand today for the defense and was the first one to break into tears while telling the story of the death of her sister. Her description of her glimpse of the intruder who killed her sister was dramatic.

"I saw a pillowcase standing in the door way," she said, "with holes cut in it for eyes. Then I saw the flash. As my brother rushed by me I turned on the light and cried out: 'Hurry up, there are burglars in

Denies Talking with Doctor.

In regard to a reported conversation berively that she had no conversation on the second floor with Dr. Paddock. She went still further and said she had never talked to him except at the window after they had gone there. The witness denied that she had testified at the inquest that she turned on the light after her sister fell and that she heard a shot before her sister. He said he was awakened by his wife; that when this shot was fired.

today so great was the interest in the ing it toward the face of the witness. journment yesterday had just described the he said Robert Fosburgh, who had been beaten by burglars, had recovered consciousness and rushed to a window and screamed "murder!" he resumed today by telling why the Fosburghs kept firearms in the house. Mr. Joyner said: "We know and the government does not know that it was the defendant's pistol which shot his sister." He continued: "The firm of R. L. Fosburgh & Co. had many men in its employ, the pay roll amounting to some \$6,000 weekly. The men were non-English speak ing and were paid in money at the office of the company. Mr. Fosburgh, sr., would take money from the bank to the office in an electric car. The men knew this and because of the risk, the chief of police had once remarked that if any men needed a pistol they (the Fosburghs) did. For this reason the defendant got one.

Mr. Fosburgh, the defendant, and his

wife, occupied the kitchen bedroom, but they discovered a disagreeable odor in the sink and moved to another room, leaving some wearing apparel and a pistol in the

"Robbery and revenge might have been motives for the burglar," Mr. Joyner de-"they were young, active, slight men, else they could not have gotten out of the house through the opening left by the

"The defense," he said, "intended to show that the soiled clothing, pillow cases, etc.

The Weak Spot.

If you are sitting in a restaurant where waitresses are in attendance, you will note now and again some young woman put her hand to her back, and straighten herself up, while her lips are tightened as if by pain. It's backache. day long she must be on her feet,

lifting, carrying, hurrying. That weak spot, the back, can be made strong by the use of Doctor Pierce's Favorite Prescription. It cures the womanly diseases which cause headache,

backache, sideache, nervousness and sleeplessness. It makes weak women strong and sick women "Favorite Pre-

scription " contains absolutely free from opium, co-

Dr. Pierce's Medical Adviser in paper covers, is sent free on receipt of 21 one-cent stamps to pay expense of mailing only. Address Dr. R. V. Pierce, Buffalo, N. V.

were thrown by the family into the basket in the carriage house.

Work of Burglars

"The theory of the defense is that the erime was not the performance of skilled burglars, that the stockings which were worn and cut were drawn on over shoes to muffle the sound of steps; that the tracks seen were made by the men when they left the house and that they intended to steal anything they could lay hands on.

"Men were seen running down Benedict street after the tragedy," he said, "and it is the theory of the defense that they doubled on their trail and when the posse came along joined in the pursuit, thus diverting suspicion from themselves.

and easily broken and it was broken," he asserted, "in the struggle in the back room There was only a narrow space between the bed and the bureau and the defense claims then she turned around and felt Robert that the bureau was twisted around during going past her. She turned on the light

In conclusion Mr. Joyner said: "Tee defense will show that the family had done Its utmost to bring to justice the men who and mother came in and that Robert enentered the house, and whatever may be tered and fell to the floor. Her mother the theory, Miss May was a woman without as enemy. In her home and in her church both gone. Who will look out for Amy" life she won the affection of all who knew Continuing, witness said that James was her. She was her brother's companion, her standing by May's head and that he cried mother's idol, and to the younger members | to her: "Bring water, towels, ammonia." of the family she was ever helpful. There The witness got water and towel. The door was no estrangement between any members was open and she slammed it shut. of the family."

Mr. Joyner concluded just before 10 o'clock and the witnesses for the defense, down beside May. Her mother said: "May including neighbors, members of the family is gone." Her mother asked her father and Miss Bertha Sheidon, were sworn in a what time it was. He told her it was group

Fred W. Lund Testifies.

Fred W. Lund, paymaster for Fosburgh, who boards at the Shepardson house, which is 250 feet from the Posburgh home, testified that on the night of the shooting he was awakened by Mr. Shepardson, who told him there was trouble at the Fosburgh home. Witness ran there and saw Robert L. Fosburgh, from whom he learned that May Fosburgh was injured. Witness went to his office to call a doctor. There he found James Fosburgh, trying to get the physician. He told of seeing the body of Miss May Fosburgh upon his return t tion of one of the theories which have been the house. While upstairs he noticed that room was pulled out about one foot. This "Esther inquired," he testified, "What has was the first time in the trial that evidence was introduced to show that the bureau was pulled away from the wall.

Going to the cellar he found the electric only papa and I have been in a little scrap light turned on at the switch near the dining room window. He found imprints four feet from the balcony and footprints in the dirt on the left side of the road. The witness described the search that he made with the state officers. Mr. Lund government but not used on that side of the said he saw the defendant's pistol at the office on payday. He never saw the elder Mr. Fosburgh with a pistol. He was shown the shoe which had been found around the Fosburgh house and he said he never saw the defendant nor the defendant's father

wearing it or one like it. Robert T. Fosburgh, the father of the defendant, was called. He began by describing the movements of his family from the time they came to Pittsfield till the day of the shooting. The defendant and his wife came to live with the witness about July 1. He said he employed about 270 men in his business as a contractor. They were mostly Italians and came from New tween herself and Dr. Paddock just after York. Mr. Fosburgh described the day prethe shooting, the young girl stated posi- vious to the tragedy. Mrs. S. L. Fosburgh had returned Saturday from St. Louis, where she had been for six weeks owing to the illness of her father. He spoke of Miss Sheldon as on a visit to his house, having been there for two or three weeks.

Mr. Fosburgh Tells of Shooting.

fell to the floor. She said that she did not he asked her what the trouble was. He see her brother, Robert, before she saw the saw what appeared to be a light moving General Agent Darlow and General Agent flash from the pistol which caused her sis- in the hallway. He raised himself upon ter's death. He was coming from his room his elbow and saw two men walking into the room toward his bed, one of them hold-Hundreds had to be denied admittance ing a revolver in his left hand and pointaddress of Mr. Joyner, the attorney for the Fosburgh sprang up, shouting, and got his defense. Mr. Joyner at the hour of ad- feet upon the floor. He struck the man on the muscle of the arm and knocked the scene on the morning of the tragedy, when revolver out of his grasp. Then he himself was struck with a sandbag and he recalls nothing further till he got up and went to the kitchen bedroom, where he saw someone standing by the bedroom looking out. The next thing he remembers that he heard Beatrice cry: "Oh, mamma, look at May; she is hurt." He then went back St. John, who recently resigned the office and saw his daughter on the floor, her mother by her side and James leaning over her head. Robert, the defendant, came into the room and fell down. Beatrice brought some water and the witness threw into his son's face. Witness then ran to the front window and cried: "Police! Murder! We want help!" Mrs. Plumb came to the window of her house to inquire if anything was wrong. He told her that burglars had been in the house and had shot May. He then ran back to Mrs. Fos

burgh and to where May was lying. He thought that he went to the window second time and then to the first floor, where he saw Lund and Shepardson coming Then he went upstairs. He did not know that he was hurt until attention was called to his left eye, which was entirely closed, and the side of his face, which was black. He did not say anything to the family about

his wounds. On the subject of what had been done to letect the burglars. Mr. Fosburgh spoke of employing four detectives. He offered a reward of \$1,500 for the arrest of the men nd that offer still holds.

At this point the court took a recess. After recess Mr. Joyner continued his direct examination of Mr. Fosburgh. He sked the witness if he could identify the nen. Mr. Fosburgh said they wore pillowcases over their heads for masks and that one of the men was taller than the other. District Attorney Cross-Examines.

At this point District Attorney Hammond began his cross-examination of the witness. In response to a question Mr. Fosburgh said that the pillowcases were pulled down over the heads of the burglars, with the corners sticking up and that they extended over the breasts of the men. In regard as to when he first saw his son, Robert S. Fosburgh, he declared that it was when he passed through the hall and stepped into the kitchen bedroom. In response to various questions by Mr. Hammond Mr. Fosburgh said, in substance. that he saw young Mrs. Posburgh and he observed that her nightdress was torn. He had no recollection of hearing pistol shots or of making a statement that he had heard a pistol shot. When he dashed the pistol from the man's hand he had the inipression that it was knocked against the

"When Esther came did your son say to her that he had been in a scrap?" "No, sir. She asked what had happened and he put his hand on her shoulder, saving "Oh, nothing, Esther, only papa and I have been in a scrap."

"It was not 'we have had a scrap?" " After Mr. Fosburgh's cross-examination was concluded Miss Beatrice Fosburgh, sister of the defendant, was called to the

"Plains of Peace."

stand.

She said she was 15 years old. She testified that in the morning, with her father and mother, she had gone to church. Miss May Fosburgh, James Fosburgh and Miss Shelden went to another church. A question which was asked her, as to what was read by her mother to May and James pattern wanted and bust measure. Allow on Sunday evening, was objected to by the government, but was allowed by the before beginning to look for the pattern.

last song sung that night was "Plains of Pence." sobbing in the courtroom, the young girl

herself bursting into tears. Continuing, the witness said that she went to bed before May. She did not recollect whether she went to sleep befor May came in. She knew nothing of May's visit to James' room. Although she did tot recollect whether she had been asleep TAKING REVENGE FOR HIS DETENTION before May came in, she was awake wher May came to bed.

scream, which came from the back of the house. She jumped out of bed and went toward the door. May was ahead of her. Suddenly she heard her sister exclaim Oh, gracious!" The room was dark at "The furniture in the house was cheap the time. Just as she got in front of the door she saw a pillowcase in front of her. A pair of eyes peered through the holes in the pillowcase. She saw a flash and and screamed: "Oh, there are burglars in the house."

Witness went on to tell that her father cried out, she remembered: "Oh, they are

She returned to the room upstairs and a little while James came back and knelt twenty minutes past 1. Her brother, James, at this point said that men were coming; that they had better dress. Miss Beatrice also testified that she found a brown hat, but she could not say whether the hat shown her was the one she picked up or not. When she saw it it was by the bureau in her father's room, all smashed in like a felt hat. She could not remember who took it from her. Only her father and mother were in the room at the time. Dr. Schofield arrived, gave her mother some medicifie and looked after her father's

SCRIBES ARE AWAY OUT WEST

Those on Union Pacific Excursion See the Damp Beauties of Wyoming.

RAWLINS, Wyo., July 24.-The Union Pacific newspaper excursion which arrived in Cheyenne at an early hour this morning left at 8 o'clock for the west. An observation car had been provided and every opportunity was given the newspaper men to see the country. The day was beautiful. The prairies, with their thick covering of grass, brightened everywhere with blossoms, stretching as far as the eye can reach, show no sign of drouth. The first stop was at Buford, twentyseven miles west of Cheyenne, where the first of the important changes in the line of the road were seen. A huge steam shovel, lifting three cubic yards of disintegrated

work done between this point and Rawlins makes a saving in distance of nineteen miles and reduces the grade from 75 to 45 At Dale Creek, near Tle Siding, a stop was made and an immense fill, 190 feet He met Ike Healer, a laborer, and shot high and 100 feet long, was inspected, as him in the hand. A few yards further was the work of dismantling the steel on he encountered Sergeant Dodge. bridge on this line. The bridge was 650 feet long and 126 feet high. Stops were made at Laramie and Medicine Bow and

granite at a time and loading a car in eight

minutes was viewed with interest. The

the train reached Rawlins at sunset, where Mr. Fosburgh then told of the shooting. it was sidetracked for the night. The train which is under the of General Passenger Agent Lomax and Griffin of Denver, consists of three sleepers, a diner and Mr. Lomax's private car. Tomorrow the party will go through the coal mines at Rock Springs, Wyo.

PLACE LIKE J. C. STUBBS' It is Said to Be Awaiting the Acceptance of St. John, Formerly

of the Rock Island. CHICAGO, July 24.-The Record-Herald comorrow will say: "It is reported that E. of general manager of the Seaboard Air general traffic manager of either the Morgan-Hill system of roads-Burlington, Great Northern and Northern Pacific-or of the Southwestern group, principally the Gould group and its allies.

Mr. St. John has arrived in Chicago and s said to have conferred with executive officers of several of the big western roads the Union and Southern Pacific railways.

Seasonable Fashions



Woman's five-gored skirt, No. 3881, with ated circular flounce gains in popularity as the season advances and has the merit of being singularly graceful as well as smart The admirable skirt shown is shaped with five gore, and fits with perfect smoothness over the hips, while it flares freely at the lower portion. The two flounces are cut with precision and care and include just the amount of fulness required by fashion. The original is made of embroidered pongee but all the season's materials are suitable Thin goods, such as mohair Swiss, dotted Swiss and grass linen are charming when so made and hung over a separate foundation, while both silks and wool are well adapted to the style. The skirt is cut full length and can be used plain or with a

single flounce when desired. To cut this skirt for a woman of medium size, 10% yards of material 21 inches wide 1014 yards 27 inches wide, 914 yards 32 inches wide, or 6 yards 44 inches wide will be required.

The pattern 3881 is cut in sizes for a 22, 24. 26, 28, 30 and 32-inch bust measure.

For the accommodation of The Bee's readers these patterns, which usually retail at from 25 to 50 cents, will be furnished at a nominal price, 10 cents, which covers all expense. In order to get any pattern enclose 10 cents, give number and name of about ten days from date of your letter Miss Beatrice remembered that the Address, Pattern Department, Omaha Bee.

Is Killed H meelf and One Victim Dies of Wounds.

She was awakened later by a very loud | Seeks to Kill All Who Testicy Against His Sanity and Diposes of Officers Who Interrupt

the Work.

LEAVENWORTH, Kan., July 24.-Michael Kelly, an insane man, today, at the office authorized local agent in the state, is a the Robert Garrett Lumber company in the business district, abot six people, killing one, fatally wounding another and more or less seriously wounding four others. He was himself finally killed by officers, who therein, and hence repayment of the loan tried to overpower him. The victims:

JOHN R. GARRETT, aged 40, junior nember of the firm of Robert Garrett Lumber company, died at hospital. MICHAEL KELLY, aged 50, died being taken to police station.

Dr. Charles McGee, aged 30, shot in back. probably fatally. Police Sergeant William Dodge, shot in neck, wound serious. Michael McDonald, detective, shot in leg-

wound slight. Joseph Faithager, policemen, shot hand, wound slight.

Ike Healer, laborer at lumber yard, shou in hand, wound slight. campaign in 1896 lost his mind entirely.

sane, Garrett and four others testifying 1.) 39. against him. After a year in the Topeka asylum Keliy was released. He had been the Fort Leavenworth range. Last night he drank henvily.

Today shortly after 12 o'clock he appeared at Garrett's office, which is situated on the ground floor at the corner of Sixth and Cherokee streets, and without warning shot Garrett as he sat at his desk. Garrett fell from his chair and into the doorway. when Kelly deliberately fired four shots more into the prostrate form. Garrett was shot once in the neck. In the left breast, through the liver and twice in different portions of the body. Leaving his victim for dead Kelly ran

lumber yard and began reloading his revolver. Presently he returned to the office to find Dr. McGee, who had been attracted by the shots, bending over Garrett. Leveling his revolver on the window sill Kelly took deliberate aim at the physician from the sidewalk and fired. The bullet struck McGee in the back at the spine and he toppled over near where Garrett lay. Then followed an exciting street fight between the madman and officers who came upon the scene. Kelly, flourishing his revolver, dashed through the lumber two exchanged shots as they ran. One bullet from Kelly's revolver struck Dodge in the neck, but not before that officer had shot him in the shoulder. Kelly kept on running and was soon confronted by DedcDonald dropped Kelly with a bullet in the neck. Dodge raised his revolver, but it failed to work and catching up with the murderer he crushed his skull with the

was carried to the station in an unconscious condition, dying soon after his arrival there. Garrett never regained consciousness and died an hour after being taken to the hospital. Dr. McGee is still suffering seriously and it is believed he cannot recover. The

veapon. Kelly sank to the ground and

wounds of the others are slight. RECENT JUDICIAL DECISIONS Agency

The agency of a person cannot be proved by his declarations or admissions or those line and was formerly general manager of of another agent of the principal, unless the Rock Island system, will be appointed they be part of the statements made in connection with his employment. 38 S. E. Rep. (N. C.) 861.

Where the defendant, in an action to recover money, has paid the money to a person formerly authorized by plaintiff to collect the same, but whose authority is regarding the place. The place which shown to have been revoked prior to the rumors say Mr. St. John will occupy is payment, the burden of showing that the similar to that occupied by J. C. Stubbs of money was paid in good faitn, and in reliance on the continuance of the agency, is on the defendant. 60 N. E. Rep. (Mass.)

Attorney and Client.

The master is not bound by the opinion of other lawyers as to the value of an attorney's services for which claim is made.

Under the Indian depredation act, providing that the court shall fix the amount of fees to be paid attorneys of claimants and make them part of the judgment, an | (Pa.) 79. agreement of a claimant to pay his attorney a certain per cent of the amount of recovery above the fee which the court was prayed to allow violates the policy of the act, and is void. 62 S. W. Rep. (Tex.) 945.

Banks and Banking. The power of a legislature to levy or to authorize the levy of a tax, and to create chapter 103, sections 8, 9; and her release or authorize the creation of a public debt to be paid by taxation, is limited to its exercise for a public purpose. The promotion of 'he construction and operation of mills and factories to manufacture sorghum cane into sugar or syrup is a private, and

youd the powers of the legislature and the township, and are void. 107 Fed. Rep. 827. Basks and Banking.

One who receives promissory notes or other chooses in action as collateral security is bound to use ordinary diligence to collect them. 38 S. E. Rep. (Ga.) 845. The payee of a negotiable promissory note, who receives other notes from the maker as collateral security, may lawfully transfer such collaterals to one to whom the former assigns the principal note, and, if the assignee wrongfully converts the collaterals to his own use, the payee in the principal note will not be liable in trover for such conversion. 38 S. E. Rep., (Ga.),

Banks and Banking.

Where a bank collects a note for a stranger and intermingles the money received with its own moneys, and afterwards money in possession of the bank to pay Rep. (Minn.) 8. such note, though no trust attaches to the general assets of the bank, since it is presumed that the bank paid out its own money before embezzling the money of others. 60 N. W. Rep., (S. D.), 21.

Defendant contended that he made arrangements with the president of the plaintiff bank whereby the proceeds of certain cotton to be sold by a firm of which defendant was a member was to be applied on the note in suit. The money realised from the cotton was applied by the bank

This testimony caused general KANSAS MADMAN SHOOTS SIX president on other obligations. Held, that the question whether the note had been paid was properly submitted to the jury. 85 N. W. Rep. (Mich.) 1075.

Building and Loan Associations. A contract of a foreign loan association, which is not usurious under the laws of the state where the obligations are payable, cannot be attacked for usury in the state

where the land mortgaged is situated. 21 Supt. Ct. Rep. 597. Building and Loan Associations.

A loan by a Tennessee building and loan association, through a traveling soliciting agent, to a resident of Alabama, where all the business in connection therewith was transacted, with the single exception of the association's assent thereto, made when the association had no place of business and violation of constitution and laws enacted pursuant thereto, prohibiting foreign corporations from doing "any business" the state without at least one known place cannot be enforced. 107 Fed. Rep. 777.

Building Trades. The mechanic's lien law of Indiana, giving ontractors, subcontractors, material men in the absence of proof that the apparatus and laborers a lien on buildings for which had become defective since the letting or they have furnished material or labor, is that he was aware of the defect at the time land owner of property without process of law since he makes his contract with full knowledge of the obligations imposed on him by statute, and hence binds his property by his own voluntary act. 60

N. E. Rep. 310

Building Trades. In a suit against a contractor, plaintiff, an employe, was injured by the fall of a Michael Kelly had lived in Leavenworth derrick, due either to inherent weakness for years and at different times had en- or improper ballasting. Evidence tended gaged in minor business enterprises. He to show that there was no visible weakness was eccentric and during the presidential in the derrick, but that the accident may At that time he was arrested for creating for which defendant would be responsible disturbance and later threatened to kill Held, that a verdict for plaintiff was not Garrett. He was arrested and adjudged in | against the evidence. 49 At. Rep. (R.

Canning Factories.

Where canned peas are sold by importers acting queerly again and declared that he by a description known to the trade to refer would kill the five men who sent him to the to the highest grade packed by them, no been practicing shooting with a revolver at where it is ascertainable by inspection of one or more cans in every hundred, which inspection is the usual custom of the trade. 60 N. E. Rep., (N. Y.), 288.

Church Organizations.

Property was conveyed to the trustees of the Zion church of the Evangelical Association of North America at a certain the same length. 70 N. Y. Supp. 268. place, in trust to be maintained as a place of worship by the ministry and membership of such association, and as a place of residence of the preachers of such association who might be stationed at such place, with power to convey the same subject to the discipline and usages of such asfifty yards to the rear of the company's sociation, as declared by the general conference of such association and the annual conference within whose bounds the said premises were situated; the trustees to have the management of the property, subject to the provisions of the discipline and the annual conference. Held, that such property could not be sold on execution issued on a judgment against the church in a proceeding foreclosing a mortgage on such property given by the local trustees. 86 N. W. Rep. (Ia.) 60.

Corporations.

Where a corporation agrees with its stockholders that only a certain amount of its stock subscribed by each stockholder 849. shall be paid in, but credit is extended to the corporation on faith that its corporate of a different agreement between the corsubscriptions are assets for the payment | he does not have the license required of such creditors on the insolvency of the revised statutes, chapter 40, section 73, and corporation. 60 N. E. Rep. (Ind.) 307.

An ordinance of the board of park commissioners of the city of Minneapolis provides that no vehicle which, together with its load, weighs more than 2,000 pounds, and which is in use for carrying goods merchandise, building material, manure, dirt, earth, or other article or commodity. and which has tires less than six inches in width, shall pass or enter upon any park or parkway. Held, as applicable to a parkway, the ordinance is void, because unreasonable and its effect prohibitive of traffic thus classified. 86 N. W. Rep. (Minn.) 93.

Fire Insurance. Where the insurance of personal property was evidenced by a paper attached to a policy previously issued on real estate, a vold the original policy, did not affect the insurance on the personal estate, the con-

tracts being separate. 62 S. W. Rep. (Ky.)

Husband and Wife. Where the husband's creditors were seeking, in an action against the husband and wife jointly, to subject property in the wife's name on the ground that it had been paid for by the husband, the husband's declarations tending to show his interest were competent as evidence against the wife. 62 S. W. Rep (Ky.) 865.

Husband and Wife. The separate acknowledgment by wife required by act February 24, 1770, when she conveys her interest in real estate, is necessary to an agreement of separation,

to bar her right of dower. 49 At. Rep. A release by the husband to the wife during coverture of all his right, title and interest in dower, or right and interest by descent in her real estate and of all claim he may have in her personal estate at her decease, by allowance or otherwise, is not a "pecuniary provision" for her, within the meaning of revised statutes, to him in consideration thereof of her right and interest by descent in his real estate, is

invalid. 49 At. Rep. (Me.) 48. Ice Dealers.

A sale of all the ice in certain ice houses for a price based upon the quantity not a public, purpose. Township bonds is shown by an agreed survey made before two graduated circular flounces, one of sued for this purpose, and the act of March the contract was reduced to writing is a which or both can be omitted. The gradu- 1, 1889, authorizing their issue, are be- saie in bulk and not of the quantity shown by the survey. 107 Fed. Rep. 886.

Implement Men.

A sales agent authorized to sell and warrant farm machinery under written conditions to be required of the purchaser may bind his principal by an oral warranty where he withholds from the purchaser at knowledge of the limitations upon his authority to impose such condition, as it this case. 86 N. W. Rep. (Minn.) 14. A contract, in which it was provided that a certain machine for and on which notes were given and freight charges paid did not and could not be made to fill the warranty therein contained, it was to be returned to the place where received and another machine substituted therefor, or the "money and notes" returned, strued. Held, that the amount paid for freight charges could be recovered in addition to the amount of the notes in case of a breach of the warranty and a failure become insolvent, a trust attaches to the to substitute another machine, 86 N. W

Inventors

Where an employe contracts to assign to his employer all inventions made by him during his employment he will not be enjoined from using such inventions to the more injury of his employer where the evidence fails to show any invention made by the employe during the term of his employ ment. 69 N. Y. Supp. 813.

Landlord and Tenant. Where plaintiff was injured by the break- Music and Art. 1513-1515 Deuglas.

Digesto what you

Dyspepsia Curo gestion was to stop cating and many think so still. But the only trouble in that kind of treatment is the fact that to stop eating means to stop living, and we can hardly call that a cure.

But since Kodol Dyspepsia Cure has become known the whole method of treating indigestion has been changed. It digests what you eat and permits you to eat all the good ford you need and gives the stomach perfect rest; and its use constitutes a plain common sense method of caring dyspepsia and indigestion.

It can't help but de you good Prepared by E. C. DeWitt & Co., Chicago. The St. bettle en apaths there the Sic. stac.

When you suffer from billousness or constitution, use the famous little liver sills known as DeWitt's Little EARLY RISERS. They never gripe.

ing of a hoisting apparatus while delivering as a matter of law, with contributory coal to a tenant the laudlord wasn't liable, negligence. 19 At. Rep. (Pa.) 66. unconstitutional, as depriving the of the letting, and is not liable for original due defect in apparatus. 80 N. E. Rep. (Mass.)

Landlord and Tenant.

The plaintiff was injured by a defective to him. There was no evidence that the plaintiff, and the defendant, refusing defendant knew of the existence of the defect. All that was visible or known to the defendant was visible to the plaintiff. Held, that if the landlord had known of a secret defect, not discoverable by the tenant, he was bound to disclose it. His duty extended have been caused by a change of ballast, beware" applies, and an agreement by the landlord to make repairs, if nothing is done toward it, does not change the rule. 42 At.

Rep. (Me.) 57. . Landlord and Tenant.

A sub-tenant of premises demised under to such differences in physical perfection. a lease expiring on the last day of April 86 N. W. Rep. (lown.) 52 removed therefrom on the morning of May asylum. Daily for two weeks past he has warranty as to their quality is implied, I all his property except certain mortgaged chattels, which he abandoned on the afternoon of such day to the chattel mortgagee, with the key of the premises. The mortgagee did not surrender the key to the landlord, nor remove its chattels, until the 15th day of the month. Held, that the tenant in general was not thereby made liable to the landlord for another term

> A party losing in a suit is liable for all the costs. Where, therefore, a landlord illegally sues out a distress warrant and has it levied upon crops of his tenant, who files a counter affidavit, and at the final trial of the case a judgment is rendered in favor of the tenant, and where pending same in care longer than twenty-eight conthe proceedings the levying officer incurs expense in gathering and protecting the crops and in preparing them for market, \$500 for violating the statute is made reand then sells them, under rule by the tenant against the levying officer to distribute the money received as the proceeds of the sale it was error for the court to take any part of the money arising from the sale of the crops to pay any of the within the meaning of such statute, and costs in the case, or any of the expenses hence, in an action therefor, separate incurred by the sheriff in gathering and counts in the complaint or declaration for caring for the crops. This is true, although the sheriff may have employed the tenant by the number of cars, was not permissible. to gather a part of the crops, and paid 107 Fed. Rep. 870. him for his services. 38 S. E. Rep. (Ga.)

A person who acts as agent of an instock is payable in full, and without notice surance company, in soliciting, receiving dissuading pupils, by threats and otherwise, and forwarding to the company applications not to trade with him, no dishonesty or tective McDonald and Officer Faithager, poration and its stockholders, the unpaid for life insurance, during a period when anything of a reproachful nature being imamendments, cannot recover of the company the compensation for such services provided in the contract between him and the company. 49 At. Rep. (Me.) 51.

Liquor Trade. Where intoxicating liquors are sold to Massachusetts with intent by the buyer to resell them in another state, contrary to the laws of that state, the seller's mere knowledge of the buyer's intent will not prevent recovery of the purchase price. 60

N. E. Rep. (Mass.) 383. Livery Stable Keepers.

Defendant sold his livery stable to plaintiff and F., as partners, and agreed not to re-engage in the livery business in that town while the parties of the second part were engaged in that business on the premises sold. F. assigned his interest breach of condition as to title, rendering in the contract to plaintiff and thereafter defendant started a livery stable. Held, that the assignment destroyed the identity of the partnership and the act of defend ant was not in violation of his agreement.

86 N. W. Rep. (Iowa.) 53. Personal Injury Suits.

A passenger on an open street car sig naled the conductor to stop and, after the latter pulled the bell and as the speed slackened he stepped to the side and stood with one foot on the car and the other on the running board. Observing that the car was not stopping at the crossing, he withdrew his foot from the running board, stood just inside of the car, firmly holding the hand rail, and again signaled the con ductor to stop. He again rang the bell and the speed slackened until the car almost stopped, when it suddenly accelerated, giving the car a jerk which threw the passen ger off. Held, that he was not chargeable

Physicians and Surgeons.

The plaintiff's right hand was so severely injured in a feed-grinding mill as to make amputation of the fingers necessary. The operation was performed by the defendant and another physician called by him. Thereafter for some five or six days the case was treated by the defandant, when stairway to a tenement leased by defendant another physician was called by the consult or act with him, surrendered the case. Some eighteen days after the injury it was deemed necessary to amputate plain tiff's arm above the elbow, which was done. Proof was given, over defendant's objection, of what plaintiff earned before no further. The rule "let the purchaser and after the loss of his arm. Defendant contended that proof should be confined to the loss of his earning capacity after the removal of his flagers, which operation was conceded to be necessary. Held, not to be reversible error where the jury's verdict showed that due consideration was given

Railroad Companies.

Where a passenger riding on a free pass was injured through the neglect of a railroad cempany's employes an answer in a suit for such injuries that, by an express stipulation endorsed on the pass, the acceptance and use thereof was a release of any injuries which might be sustained by the person to whom it was issued, will not bar an action brought by such passenger against the company for negligence. 60 N. E. Rep. (Ind.) 362.

Railroad Companies.

By revised statutes sections 4386-4390 no common carrier of live stock conveying it from one state to another shall confine the secutive hours without unloading for rest, water, etc., and a penalty of from \$100 to coverable in the name of the government by a civil action. Held, that a carrier's confinement of a trainload of cattle for a longer period than twenty-eight hours without unloading was a single offenso each car, intended to multiply the penalty

Storekeepers.

A storekeeper has no right of action against a school teacher and members of a school board because of their maliciously puted to him. 60 N. E. Rep. (Ind.) 355. St. 1884, c. 277, prohibited the sale of property on a representation that any other thing than that specifically stated to be the subject of the sale should be delivered. Acts 1898, c. 576, declared that the provisions of the previous act should apply to the giving of a stamp or coupon entitling the purchaser to other property from other persons. Held, that such act did not prohibit the giving of stamps or coupons to a purchaser to go to the store of another, where such stamps would be accepted in payment of articles on exhibition there for sale, the number of stamps necessary to

purchase article being indicated or marked



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